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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 22, 25, 36, and 52

[FAC 2005-87; Item II; Docket No. 2016-0052; Sequence No. 1]

Federal Acquisition Regulation; Technical Amendment

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes an amendment to the Federal Acquisition Regulation (FAR) in order to make an editorial change.

DATES: Effective: **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Hada Flowers, Regulatory Secretariat Division (MVCB), 1800 F Street, NW., 2nd Floor, Washington, DC 20405, 202-501-4755. Please cite FAC 2005-87, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 4, 22, 25, 36, and 52 this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 4, 22, 25, 36, and 52

Government procurement.

Dated: February 29, 2016.

William Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 22, 25, 36, and 52 as set forth below:

1. The authority citation for 48 CFR parts 4, 22, 36, and 52 continues to read as follow:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE MATTERS

4.1703 [Amended]

2. Amend section 4.1703 by removing from paragraph (a)(1) "type and estimated total value of the orders issued under the contract" and adding "type and estimated total value of each order under the contract" in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT

ACQUISITIONS

22.1904 [Amended]

3. Amend section 22.1904 by removing from paragraph (b)(1) "for subcontractors." and adding "for subcontractors)." in its place.

PART 25—FOREIGN ACQUISITION

4. The authority citation for part 25 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

25.1102 [Amended]

5. Amend section 25.1102 by removing from paragraph (d) (3) "use the clause" and adding "use the provision" in its place.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.607 [Amended]

6. Amend section 36.607 by removing from paragraph (b) "15.507(c)." and adding "and 15.507(c)." in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Amend section 52.212-3 by—

- a. Revising the date of the provision;
- b. In paragraph (h), following paragraph (h) (3), removing paragraphs (i) (1) and (2);
- c. Adding paragraphs (p) and (q); and
- d. Removing from Alternate I, paragraphs (p) and (q).

The revision and additions read as follows:

**52.212-3 Offeror Representations and Certifications—
Commercial Items.**

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS ([INSERT
ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

* * * * *

(p) Ownership or Control of Offeror. (Applies in all solicitations when there is a requirement to be registered in

SAM or a requirement to have a DUNS Number in the solicitation).

(1) The Offeror represents that it ☐ has or ☐ does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates "has" in paragraph (p) (1) of this provision, enter the following information:

Immediate owner CAGE code: _____.

Immediate owner legal name: _____.
(Do not use a "doing business as" name)

Is the immediate owner owned or controlled by another entity: ☐ Yes or ☐ No.

(3) If the Offeror indicates "yes" in paragraph (p) (2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: _____.

Highest-level owner legal name: _____.
(Do not use a "doing business as" name)

(q) Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is [] is not [] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner

pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is [] is not [] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

* * * * *

8. Amend section 52.212-5 by:

a. Revising the date of the clause and paragraphs

(c) (8) and (e) (1) (xv); and

b. In Alternate II, revising paragraph (e) (1) (ii) (N).

The revisions read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

* * * * *

(c) * * *

__ (8) 52.222-55, Minimum Wages Under Executive Order 13658 ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]).

* * * * *

(e) (1) * * *

(xv) 52.222-55, Minimum Wages Under Executive Order 13658 ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]).

* * * * *

Alternate II * * *

(e) (1) * * *

(ii) * * *

(N) 52.222-55, Minimum Wages Under Executive Order 13658 ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]).

* * * * *

9. Amend section 52.213-4 by revising the date of the clause and paragraph (b) (1) (ix) to read as follows:

**52.213-4 Terms and Conditions—Simplified Acquisitions
(Other than Commercial Items).**

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

* * * * *

(b) * * *

(1) * * *

(ix) 52.222-55, Minimum Wages Under Executive Order 13658 ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]) (Applies when 52.222-6 or 52.222-41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).

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[BILLING CODE 6820-EP]

[FR Doc. 2016-04774 Filed: 3/4/2016 8:45 am; Publication Date: 3/7/2016]